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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

<p><b>INVESTIGATION OF REVENUE REQUIREMENT IMPACTS OF THE NEW FEDERAL TAX LEGISLATION TITLED: “AN ACT TO PROVIDE FOR RECONCILIATION PURSUANT TO TITLES II AND V OF THE CONCURRENT RESOLUTION OF THE BUDGET FOR FISCAL YEAR 2018”</b></p>	<p>Docket No. 17-035-69  Docket No. 17-057-26  <b>COMMENTS OF THE DIVISION OF PUBLIC UTILITIES IN SUPPORT OF UAE’S MOTION FOR ORDERS FOR DEFERRED ACCOUNTING TREATMENT OF BENEFITS ASSOCIATED WITH 2018 TAX RECONCILIATION ACT</b></p>
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Pursuant to Utah Admin. Code r.746-100, the Division of Public Utilities (“Division”) files these Comments in Support of Utah Association of Energy Users (“UAE”) Motion for Orders for Deferred Accounting Treatment of Benefits Associated with U.S. Tax Reconciliation Act. The Division supports UAE’s Motion and recommends that the Commission require both Rocky Mountain Power (“RMP”) and Dominion Energy Utah (“DEU”) to defer for later ratemaking treatment savings or benefits realized as a result of federal tax law changes beginning January 1, 2018 that are not otherwise passed to customers through pass through accounting mechanisms until the benefits are included in new rates.

H.R.1 – An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018 (“2018 Tax Reconciliation Act”) was signed on December 22, 2017 and became effective January 1, 2018 as it applies to the 2018 tax year. Pub. L. No. 115-97, § 11000, 131 Stat. 2054 (2017). The most important effect of the 2018 Tax Reconciliation Act is the reduction in corporate income tax rate from 35% to 21%. This reduction significantly lowers the tax burden that will be born by RMP and DEU during the 2018 and future tax years. RMP and DEU rates currently include recovery based on a corporate tax rate of 35%. Other changes might also significantly affect utilities’ tax treatment.

UAE filed its Motion seeking an order requiring RMP and DEU to begin deferred accounting of the benefits on January 2, 2018. Pursuant to the Commission’s January 3, 2018 Notice the Division provides these Comments in support of UAE’s Motion.

Deferred accounting is appropriate and legal to apply to the tax law changes outside of a general rate case. While generally prohibited outside of a general rate case, in some unforeseen changes in circumstance “justice and equity require that adjustments be made for unforeseen windfalls or disasters not caused by the utility. We emphasize that the exception for unforeseeable and extraordinary events cannot be invoked simply because a utility experiences expenses that are greater or revenues that are less than those projected in the general rate proceeding.” *MCI Telecommunications Corp. v. Public Service Com'n of Utah*, 840 P.2d 765, 772 (Utah 1992).

Similar to the facts in *MCI*, the request for an accounting mechanism to capture unforeseen benefits for ratepayers in the instant case also is the result of a tax law change. *Id.* at 772-73. The facts of the instant case provide more compelling justification for use of a deferred

accounting order than *MCI*. In comparison the Commission merely “misappraised the effect” of the tax law change in *MCI* by underestimating the impact. *Id.* at 772. In this instance the most recent general rate case for each utility was filed in 2013 and concluded in 2014.<sup>1</sup> The Tax Reconciliation Act was unforeseeable as recently as only a few months ago. It was not even a consideration at the time of the prior rate cases for either RMP or DEU.

Additionally, the substantial reduction in corporate income tax rates included in the 2018 Tax Reconciliation Act is as significant or more so than the Tax Reform Act of 1986. The Tax Reform Act of 1986 reduced corporate income tax rates from 46% to 34% over two years. The Tax Reconciliation act of 2018 reduces the corporate income tax rate from 35% to 21% in a single step.

The tax law change plainly falls within the exception for unforeseeable and extraordinary events set forth in *MCI*. In order to avoid the unjust and unreasonable rates that would likely be substantially in excess of reasonable rates of return authorized in prior rate cases, justice and equity require action to be taken to avoid the windfall to RMP and DEU as a result of tax law changes. Those benefits should fairly be passed to rate payers.

For these reasons the Division supports UAE’s Motion. The Commission should issue deferred accounting orders for both RMP and DEU to account for the benefits associated with the 2018 Tax Reconciliation Act starting January 1, 2018. The Division further agrees with UAE that the benefits may be passed to customers in a future ratemaking proceeding. Benefits that

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<sup>1</sup> *In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*, Docket No. 13-035-184 and *In the Matter of the Application of Questar Gas Company to Increase Distribution Rates and Charges and to Make Tariff Modifications*, Docket No. 13-057-05.

would flow to customers in the normal course of adjustment mechanisms such as the pass through and energy balancing accounts should be included in those filings and passed to customers.

Submitted this 12th day of January 2018.

/s/ Justin C. Jetter

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